



CONTRACT FACE SHEET

Document Type:

- Contract, MOU, Interlocal Agreement, Notice of Acceptance, Retainage, Franchise Agreement, Right of Way Use Agreement, Lien, Correspondence, Collective Bargaining Agreement

Status:

- New, Amendment, Change Order, Renewal, Cancellation

*Vendor Name: City of Redmond/City of Epsca

*JDE PO Number: 910511-000

*Effective Date: 5-1-09

*Termination Date: 12-31-2009

Amendment Effective Date: /

*Clerk's Receiving Number: 44351

Related Receiving Number: 44351

Bid/RFP/RFQ/ITQ Number: /

Ordinance Number: /

Resolution Number: /

CIP Number: /

Project Name: Benefit Transition Agreement

Site Name: /

Vendor Number: 35551

File Location: 02-404

*Denotes mandatory fields. If referring to Retainage, please indicate the Termination Date same as the Contract Termination Date.

Face Sheet Date: 5-18-09-MT JVE MT
Scan Date: 7-5-10-09-MT ECM
Index Date: ECM

CR# 44351 DATE 5-18-09 LOC 09-404

BENEFIT TRANSITION AGREEMENT

THIS AGREEMENT is entered into between the City of Redmond (Redmond), the City of Bellevue (Bellevue) and the Eastside Public Safety Communication Agency (EPSCA) effective the last date executed below

WHEREAS, since its formation, EPSCA has utilized City of Bellevue employees (the EPSCA employees), to, in part, fulfill its mission which is to own and operate an 800 MHz radio communications systems for the use of its members; and

WHEREAS, EPSCA employees have received pay and benefits according to the City of Bellevue's personnel policies and procedures with EPSCA reimbursing Bellevue for the costs of salaries and benefits; and

WHEREAS, part of those benefits received by EPSCA employees from Bellevue include accrued vacation; and

WHEREAS, as a result of the formation of NORCOM and the relocation of, EPSCA from its current location in Bellevue City Hall to a location in the Redmond Public Safety Building, EPSCA employees will cease to be Bellevue employees on or about May 1, 2009 be employed by the City of Redmond under its personnel policies and procedures on such date; and

WHEREAS,, EPSCA, Redmond and Bellevue wish to permit EPSCA employees to transfer accrued vacation banks to Redmond under the terms stated in this Agreement; and

WHEREAS, the value of transferred accrued vacation is subject to federal income and payroll taxes, and if applicable, employee Municipal Employee Benefit Trust (MEBT) contributions that will be deducted from the EPSCA employees' remaining paychecks; and

WHEREAS, EPSCA employees must agree in writing to the vacation accrual transfer in lieu of their contractual right to cash out vacation and acknowledge the tax consequences of same;

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Vacation Leave Bank Transfer

A. Bellevue agrees to permit EPSCA employees to transfer accrued vacation to Redmond instead of Bellevue paying EPSCA employees for said vacation as provided in Bellevue's Human Resources Policy and Procedure Manual Section 10.9 (Section 10.9) as provided under the conditions and up to the amounts provided in this Agreement.

B. Redmond agrees to allow each EPSCA employee to transfer to Redmond his/her accrued vacation leave bank available at termination from Bellevue in an amount up to (a) the total number of vacation hours accrued at Bellevue under Bellevue's personnel policies and procedures, or (b) the maximum number of vacation hours that may be accrued under Redmond's non-union personnel policies and procedures, whichever is less. The EPSCA employees shall thereafter accrue Redmond vacation leave as provided in Redmond's personnel policies and procedures for non-union, regular employees. Use of the transferred vacation leave shall thereafter be subject to all applicable personnel policies, requirements and procedures of Redmond, including but not limited to Redmond's vacation accrual caps. As a result, neither Redmond nor Bellevue warrants or promises that the value of said transferred vacation at termination will continue to have the same value upon/after employment at Redmond.

C. Redmond and EPSCA acknowledge that the value of the transferred vacation to Redmond is considered constructively received employee wages and therefore is subject to withholding by Bellevue for federal income tax, payroll tax, and employee MEBT contributions, if applicable, upon termination. Said employee taxes/MEBT obligations shall be borne solely by the EPSCA employees as provided by law. Bellevue shall withhold said taxes/MEBT obligations from the EPSCA employees' remaining paychecks.

D. Any obligation to cash out any of the EPSCA employees for any portion of that employee's accrued vacation leave bank at Bellevue that is not transferring to Redmond shall be the obligation of Bellevue according to Bellevue's personnel policies and procedures, subject to reimbursement by EPSCA. Redmond shall not be responsible for any portion of any such cash out under any circumstances.

E. Once Bellevue transfers the vacation to Redmond in accordance with this Agreement, Bellevue shall have no further liability or responsibility to the EPSCA employee, Redmond or EPSCA related to the future payment for, value or use of, or rights or interests in the transferred vacation bank.

F. EPSCA shall protect, defend and indemnify Bellevue, its elected officials, employees, agents and representatives from any claims, statutory violations, loss, damages, judgments, costs (including attorney's fees) or settlements of any form or nature arising from or related to the transfer of the Bellevue vacation leave bank or its subsequent payment, value, use, or rights or interests in said leave banks upon or after Redmond employment.

G. EPSCA agrees to reimburse Bellevue for any amounts paid by Bellevue to the EPSCA employees for the cashing out of any accrued vacation leave banks at Bellevue and agrees to reimburse Bellevue for its contributions to MEBT and Medicare, if any, and any other employer required or imposed fees, costs, tax liabilities (including interest or penalties) associated with either the transfer of or the cashing out of accrued vacation at termination.

H. Pursuant to separate agreement entered into between Redmond and EPSCA, EPSCA shall reimburse Redmond for:

1. its payments to EPSCA employees to address the additional tax liability EPSCA employees paid as a result of the transferred vacation; and
2. vacation leave used by the EPSCA employees after the same is transferred to Redmond. In the event any EPSCA employee leaves Redmond's employ in a manner which requires cashing out of that employee's vacation leave bank or any portion thereof, EPSCA will reimburse Redmond for any cost of that cash out.

2. Consent of EPSCA Employees. No Bellevue vacation bank will transfer from Bellevue to Redmond without the timely prior written consent of the EPSCA employee as provided in Attachment A. EPSCA employees must elect vacation transfer by April 30, 2009. EPSCA employees may decide to transfer all, none, or any portion of their accrued vacation bank to Redmond subject to the limits in this Agreement, and any portion not so transferred shall be treated as provided in this Agreement under Bellevue's personnel policies and procedures. As between Redmond and Bellevue, Bellevue shall notify Redmond of those hours of vacation leave that each EPSCA employee has requested and consented to have transferred to Redmond and Redmond agrees to allow that transfer subject to the provisions set forth in Section 1.

3. General Provisions:

A. This Agreement shall be governed by the laws of Washington and its choice of law rules. All parties irrevocably consent to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.

B. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

C. Any failure by any party to enforce strict performance of any provision of the Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of the Agreement.

D. Neither the Agreement nor any of the rights or obligations of EPSCA or Redmond arising under the Agreement may be assigned without Bellevue's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.

E. In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party shall be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.

F. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

CITY OF REDMOND

CITY OF BELLEVUE

Mayor John Marchione

Dated: _____

Attest:

Michelle M. McGehee, CMC, City Clerk

APPROVED AS TO FORM:

James E. Haney, City Attorney

EASTSIDE PUBLIC SAFETY
COMMUNICATIONS AGENCY

Leon Kos, Chair, EPSCA Executive Board

Dated: _____

APPROVED AS TO FORM:

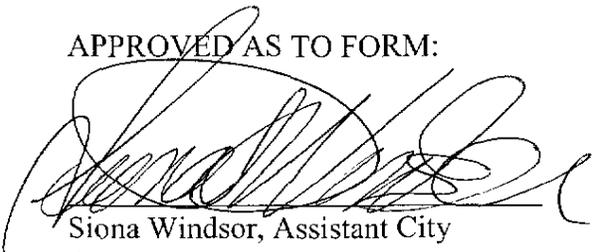
Robin Jenkinson, EPSCA Attorney

Brian Miyake

City Manager - Deputy

Dated: 4-23-09

APPROVED AS TO FORM:

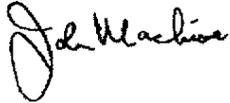


Siona Windsor, Assistant City Attorney

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CITY OF REDMOND

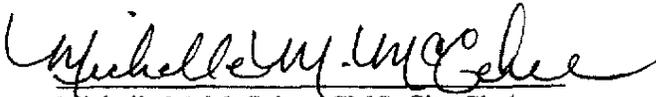
CITY OF BELLEVUE



Mayor John Marchione
Dated: 4/23/09

Steven Sarkozy, City Manager
Dated: _____

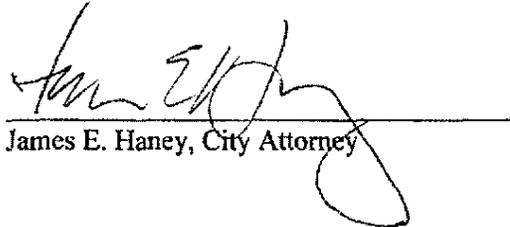
Attest:



Michelle M. McGehee, CMC, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:



James E. Haney, City Attorney

Siona Windsor, Assistant City
Attorney

EASTSIDE PUBLIC SAFETY
COMMUNICATIONS AGENCY

Leon Kos, Chair, EPSCA Executive Board
Dated: _____

APPROVED AS TO FORM:

Robin Jenkinson, EPSCA Attorney

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CITY OF REDMOND

CITY OF BELLEVUE

Mayor John Marchione

Dated: _____

Attest:

Michelle M. McGehee, CMC, City Clerk

APPROVED AS TO FORM:

James E. Haney, City Attorney

_____, City Manager

Dated: _____

APPROVED AS TO FORM:

Siona Windsor, Assistant City Attorney

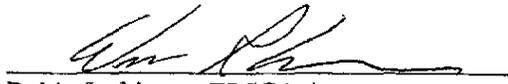
EASTSIDE PUBLIC SAFETY
COMMUNICATIONS AGENCY



Leon Kos, Chair, EPSCA Executive Board

Dated: 4/23/2009

APPROVED AS TO FORM:



Robin Jenkinson, EPSCA Attorney
7/3/09

ATTACHMENT A

AGREEMENT TO TRANSFER VACATION LEAVE BANK TO REDMOND AND
WAIVER OF RIGHT TO RECEIVE COMPENSATION FOR ACCRUED VACATION
LEAVE

I, _____, hereby acknowledge and agree as follows:

1. I am currently a City of Bellevue employee serving the Eastside Public Safety Communications Agency (EPSCA) in the position of _____.

2. As of May __, 2009, my duties in serving EPSCA will be performed as a City of Redmond employee.

4. With the termination of my employment with the City of Bellevue, under Human Resources Policy and Procedure Manual Section 10.9 (Section 10.9), I am entitled to be paid for accrued but unused vacation. I understand that 10.9 "Payment for Vacation Accruals at Termination" provides:

When leaving City service, an employee will be paid at his/her base hourly rate in a lump sum for all unused vacation accruals which have not been forfeited as described in **§10.7 Limits on Vacation Accruals** of this manual.

5. I have read the foregoing Benefit Transfer Agreement between the Cities of Bellevue, Redmond and EPSCA. I understand that I may elect to transfer to Redmond my accrued vacation leave bank available at termination from Bellevue in an amount up to (a) the total number of vacation hours accrued at Bellevue under Bellevue's Human Resources Policy and Procedure Manual or (b) the maximum number of vacation hours that may be accrued under Redmond's non-union personnel policies and procedures, whichever is less. I also understand that if I elect to transfer vacation accrual to Redmond, that the use and value of said vacation while employed by Redmond will be governed by Redmond's policies and that said policies may affect the value of the transferred vacation after employment with Redmond.

6. I understand that the value of the transferred vacation to Redmond is considered employee wages constructively received at termination from Bellevue. Therefore the value of said transferred vacation together with the value of any accrued vacation that is cashed out pursuant to Section 10.9 is subject to withholding by Bellevue for federal income and payroll tax purposes and for employee MEBT contributions, if any. I understand that said tax/MEBT obligations shall be borne solely by me and shall be taken from my remaining Bellevue paychecks consistent with available wages even though I have not received cash for the transferred vacation at termination. If deciding to transfer vacation, I understand that I must complete and sign this form and submit it to Diane Kendall in Human Resources by April 30, 2009. My failure to so timely elect to transfer

said vacation will result in my receiving cash for my accrued vacation as provided in Section 10.9.

7. I have had a full opportunity to ask questions of a Redmond Human Resources representative regarding the Redmond Policies that will impact my use and the value of said transferred vacation accrual prior to entering into this Agreement. I have also had a full opportunity to ask questions of Bellevue's Finance Department regarding the payroll consequences of my vacation transfer election and Bellevue's Human Resources Department regarding my vacation benefits at termination.

8. I acknowledge that I have been advised to obtain independent tax advice regarding the tax consequences of any elections or decisions I make with regard to my accrued vacation bank before making said election/decisions. I further acknowledge and understand that any information I receive from Bellevue regarding the consequences of my election/decisions is not tax advice and is not provided by a tax expert.

9. I understand that any accrued vacation existing at termination from Bellevue employment that I do not elect to transfer to Redmond, shall be cashed out pursuant to Section 10.9.

10. With full knowledge of 1) my rights to cash payments for vacation under Section 10.9; 2) the federal income and payroll taxes and employee MEBT contributions due at termination applicable to a transfer of my vacation bank to Redmond; and 3) the Benefit Transfer Agreement and the Redmond Policies that will be applicable to the transferred leave bank, I hereby elect to:

a. / / (Check) Transfer hours of my accrued vacation at termination from the City of Bellevue to the City Redmond. I understand that by making this election I will receive no payment from the City of Bellevue for this transferred accrued vacation, but that the value of said accrued vacation shall be subject to federal income and payroll withholding taxes and employee MEBT contributions, if any, from my remaining Bellevue paychecks.

11. By transferring the amount designated in 10a, I acknowledge and agree that I am entitled to cash out hours of accrued vacation at termination pursuant to Section 10.9.

12. Upon the transfer of the vacation leave bank as designated above, I hereby waive and release the City of Bellevue, its elected officials, employees, agents and representatives from any and all liabilities or obligations whatsoever with regard to the value of said accrued benefits and/or the use I may have of said transferred vacation while employed at or terminated from the City of Redmond and with regard to my federal tax obligations associated with said transfer. I further agree that the City of Bellevue shall have no liabilities or obligations regarding any agreements entered into between the City of Redmond, EPSCA and/or me related to my wages and benefits, including but not limited

to vacation transfer or payments to address tax liabilities for the vacation transfer to the City of Redmond

13. I fully understand my right to not elect to transfer my vacation leave bank to the City of Redmond and freely and voluntarily make the election herein. I acknowledge and agree that in executing this Agreement I am not relying and have not relied upon any representations or statements not set forth in this Agreement.

I UNDERSTAND THAT IF I WISH TO HAVE VACATION TRANSFERRED TO THE CITY OF REDMOND I MUST SIGN THIS AGREEMENT AND DELIVER IT TO DIANE KENDALL IN HUMAN RESOURCES BY APRIL 30, 2009.

Executed at _____ on April __, 2009

[employee's name].

CR# 44351 Date: 5-18-09 Loc: 09-4040 #: 910511-000



City of Bellevue
 Finance Department - Contracting Services
 450 110th Ave. NE. Bellevue, WA 98004

Contract Routing Form

Current Contract Information:

Contract Title: Benefit Transition Agreement	Department: Police
Contract Description: Interlocal agreement to permit the transfer of vacation balance for employees terminating from COB and hired by Redmond.	Contract Manager: Siona D. Windsor
Total Contract Value:	Contract Type: Interlocal Agreement (ILA)
This Amendment Value: N/A	Contract Form: Custom contract document
	Budget Expenditure:

Vendor Information:

Is this a new vendor? No <input checked="" type="checkbox"/>	Tax ID #:
Vendor Name: City of Redmond/City of Epsca	COB License #:
JDE Vendor Number: 35551	UBI #:
Is this vendor an independent contractor? Yes	Contractor's License #:

Contract Terms: approx 5-09
Original Effective Date: 5-09 **End Date:** **Subject To:**

Related Contract Information:

Is this an amendment/change order/renewal? No

Council Approval:

Does this contract require council approval? No

Route:	In	Out
Contracting Services: <u>Wade Brown</u>		<u>5/18/09</u>
Information Technology: <u>Not Required</u>		
Legal: <u>[Signature]</u>	<u>4/27/09</u>	<u>4/29/09</u>
Insurance Reviewed By: <u>[Signature]</u>	<u>5/14/09</u>	<u>5/15/09</u>
Department Director: <u>[Signature]</u>		
Contracting Services: <u>Wade Brown</u>	<u>5/18</u>	<u>5/18</u>
Return To: <u>Reina McCauley</u>		
City Clerk's Office: <u>MT</u>	<u>5-18-09</u>	<u>5-18-09</u>

Selection Method:

Selection Method: Other

Budget Information:

Line #	Description	GL Date	Account #	Subtotal	Tax	Total

Additional Comments:

Interlocal Agreement permitting the transfer of vacation balance for employees terminating from City of Bellevue and being hired by Redmond/Epsca.

CONTRACT REVIEW CRITERIA

Contract Title: Benefit Transition Agreement

Vendor Name: City of Redmond/City of Epsca

Dept. Contracting Services

- Assumed to have been reviewed by legal*
- a) Does the Contract Routing/Approval Form and Contract have consistent information?
 - b) Is the Contract Type and template appropriate for the services performed?
 - c) Are the contract values (i.e aggregate values, yearly budget totals, taxable amounts, acct. numbers, etc.) accurate?
 - d) Is the JDE vendor name and number accurate?
 - e) Does the Contractor have a Bellevue Business License? If not, date Tax Office was notified? _____.
 - f) Do the Contract Start/End Dates comply with current policies (maximum 4 years unless exception noted)?
 - g) Is this an amendment or renewal? If so, are the original contract #'s and values indicated?
 - h) Has the Selection Method been explained in Additional Comments? Are results attached?
 - i) Is there an ordinance/resolution/motion for this contract? If so, is date and # noted? Is copy attached?
 - j) Does the contractor meet requirements of the Independent Contractor Threshold question?
 - k) Is Attachment "A" (Scope of Work and/or Services) attached?
 - l) Is Attachment "B" (Insurance Requirements) attached?
 - m) Are any additional riders required? If so, which one's? _____.
 - n) Does Insurer have a Best rating of A- or better?
 - o) Is the Contractor identified as the insured?
 - p) Does the Contractor have Commercial General Liability, Business Auto Liability, Worker's Compensation, and Employer's Liability/Stop Gap and special coverages as required?
 - q) Are the policy expiration date(s) on the Certificate of Insurance current?
 - r) Does the Contractor have a self-insured retention? Is it above \$50,000?
 - s) Is the City listed as the Certificate Holder?
 - t) Does the cancellation wording provide the City with 30 days notice?
 - u) Is the Certificate signed?
 - v) Is the City of Bellevue (& contracting partners) listed as an additional insured on the Certificate of Insurance? Is the additional insured status primary and non-contributory?
 - w) Is the contract exempt from paying Prevailing Wages? If not, are current Wage Rates attached in Attachment "C"?
 - x) Does the Contractor have an open account with the Washington State Department of Revenue?
 - y) Are the Contractor's worker's compensation premiums current?
 - z) Is the Contractor on the Federal Debarred Suspended List?
 - aa) Does the vendor have an active Professional/Contractor License with the Washington State Department of Licensing?

RISK MANAGEMENT:

- NA*
- Are the Insurance Requirements (Attachment B) appropriate for Scope of Work?
 - Does the Contractor's Certificate of Insurance comply with the requirements?
 - Are there any Limitations of Liability clauses or other risk transfer language problems that shift risk back to the City?
 - Does the Hold Harmless clause include language referencing Title 51 releases?